

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NETLIST, INC.,

Plaintiff,

vs.

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA,
INC., SAMSUNG SEMICONDUCTOR,
INC.,

Defendants.

Case No. 2:21-CV-463-JRG

JURY TRIAL DEMANDED

**NETLIST INC.'S MOTION TO STRIKE PORTIONS OF THE
REBUTTAL EXPERT REPORT OF PHILIP KLINE**

I. INTRODUCTION

Plaintiff Netlist, Inc. (“Netlist”) respectfully brings this motion to strike and exclude certain portions of the rebuttal report of Defendants Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Semiconductor, Inc.’s (“Samsung”) expert Philip Kline, attached as Ex. 1 hereto (“Kline Report”).

II. ARGUMENT

A. References to Dr. Groehn’s Analysis [REDACTED]

Paragraphs 74-89. In section 8.3.1 of his rebuttal report, Mr. Kline states that [REDACTED]

[REDACTED] Kline Report ¶¶ 74-89. [REDACTED]

[REDACTED] The differences between Dr. Groehn’s and Mr. Kline’s analyses are solely results of differences in the order in which each expert applied steps to filter and aggregate the data—differences which are appropriate for cross-examination at trial. [REDACTED]

[REDACTED] Suggesting to the jury that Dr. Groehn’s underlying data was different or wrong in some way is prejudicial and confusing, and lacks relevance. As such, any such suggestion should be stricken from Mr. Kline’s report. To be clear, Mr. Kline can tell the jury his opinion that Dr. Groehn’s analysis should have been performed in some other manner, or the underlying data should have been aggregated in a different way. [REDACTED]

Dated: February 3, 2023

Respectfully submitted,

/s/ Samuel F. Baxter

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CERTIFICATE OF SERVICE

I hereby certify that, on February 3, 2023, a copy of the foregoing was served to all counsel of record.

/s/ Yanan Zhao
Yanan Zhao

CERTIFICATE OF AUTHORIZATION TO FILE UNDER SEAL

I hereby certify that the foregoing document and exhibits attached hereto are authorized to be filed under seal pursuant to the Protective Order entered in this Case.

/s/ Yanan Zhao
Yanan Zhao

CERTIFICATE OF CONFERENCE

I hereby certify that, on February 2, 2023 counsel for the parties met and conferred on the issues raised in this motion. Counsel for Samsung confirmed that Samsung did not intend to withdraw any of its expert reports, or any portions of its expert reports, and that Samsung would oppose any motions to strike related to those reports.

/s/ Yanan Zhao
Yanan Zhao